

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**BARRY E. SHELLEY,**

**Plaintiff,**

**v.**

**PSP TROOPER TERRY M. WILSON and  
PSP TROOPER JEFFREY BROCK,**

**Defendant.**

**Civ. No. 04-02 Johnstown  
Magistrate Judge Pesto**

**MEMORANDUM ORDER**

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and subsections 3 and 4 of Local Rule 72.1 for Magistrate Judges.

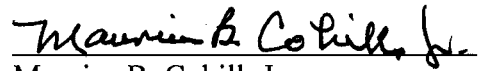
The Magistrate Judge filed a Report and Recommendation on November 13, 2008 (Doc. 36), recommending that the Defendants' motion to dismiss (Doc. 32), should be granted. The parties were notified that, pursuant to 28 U.S.C. § 636(b)(1), they had ten days to serve and file written objections to the Report and Recommendation. Plaintiff timely filed objections, entitled "Motion of Opposition of Report and Recommendation" (Doc. 37). Plaintiff's objections offer nothing that the Court has not already considered in Plaintiff's prior pleadings. For the most part, Plaintiff continues to argue his total innocence on all charges brought against him.

After de novo review of the record, the Report and Recommendation, and the timely objections thereto, the following order is entered:

AND NOW, this 15<sup>th</sup> day of December, 2008, it is hereby ORDERED,  
ADJUDGED and DECREED that Defendants' motion to dismiss (Doc. 32), be and hereby is  
GRANTED. Plaintiff's complaint is dismissed.

The report and recommendation of Magistrate Judge Pesto (Doc. 36) is adopted  
as the Opinion of the Court.

The Clerk shall mark this matter closed.

  
Maurice B. Cohill, Jr.  
Senior United States District Judge

cc: Barry E. Shelley, pro se  
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